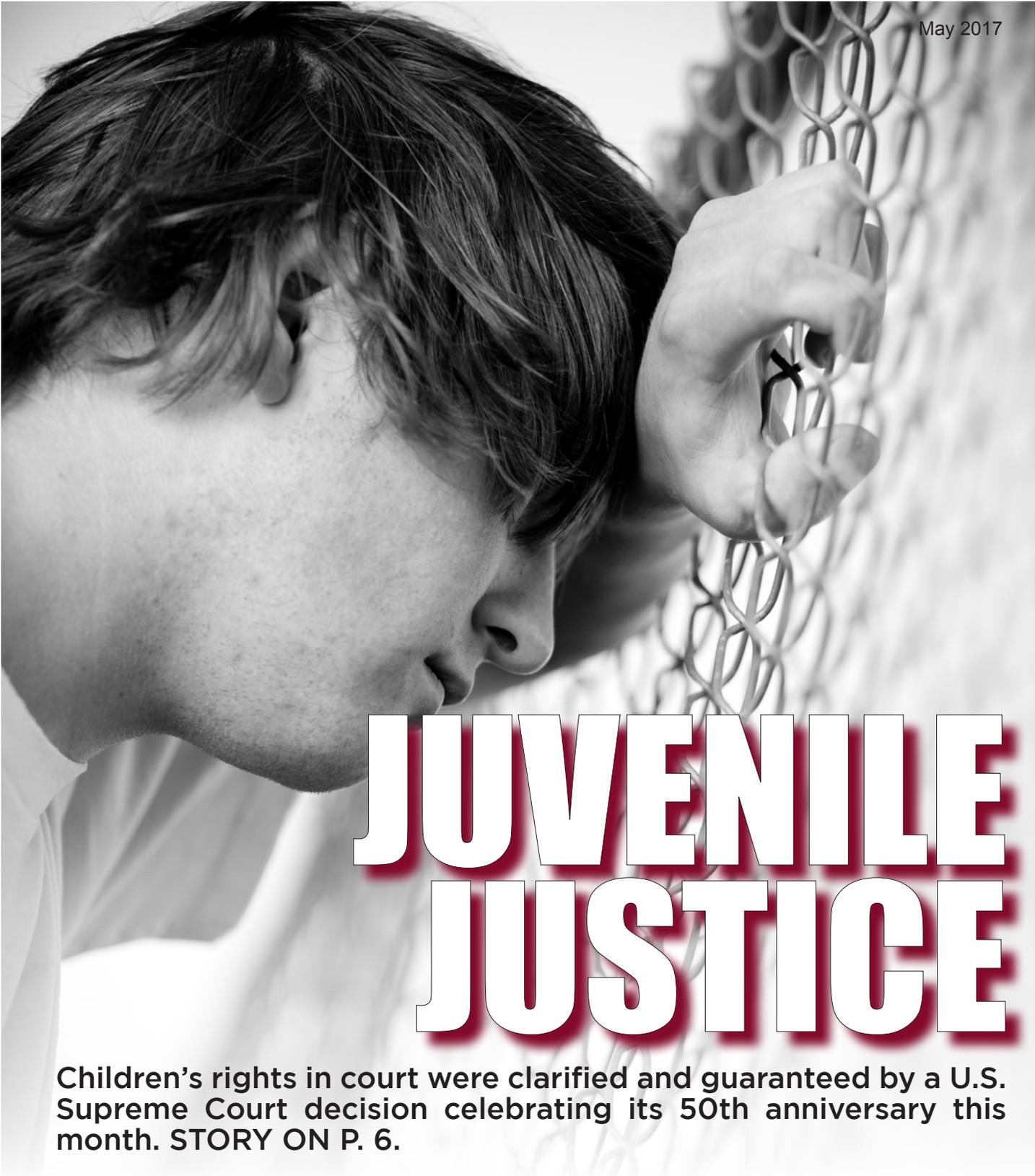


Sixth District: Raise Damages for  
Ex-Wife's Facebook Falsehoods (p. 3)

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# CNO REVIEW

May 2017



## JUVENILE JUSTICE

Children's rights in court were clarified and guaranteed by a U.S. Supreme Court decision celebrating its 50th anniversary this month. **STORY ON P. 6.**

## About Court News Ohio

Court News Ohio is a service of the Office of Public Information of the Supreme Court of Ohio and Ohio Government Telecommunications. Court News Ohio includes a website ([courtnewsohio.gov](http://courtnewsohio.gov)), a monthly publication (CNO Review), a television program (CNOTV), a Facebook page ([facebook.com/courtnewsohio](https://www.facebook.com/courtnewsohio)), a Twitter feed ([@courtnewsohio](https://twitter.com/courtnewsohio)), and a YouTube channel ([youtube.com/CourtNewsOhioTV](https://www.youtube.com/CourtNewsOhioTV)).

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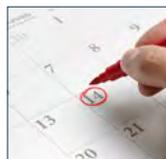
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# Cases

Visit [courtnesohio.gov](http://courtnesohio.gov) for the most current decisions from the Ohio Supreme Court, Courts of Appeals, and Court of Claims.

## Supreme Court of Ohio

### Allegations that Judge's Harsher Sentence is Vindictive Must Be Supported with Evidence

If a criminal defendant gets a harsher sentence than one offered in a plea bargain, any allegation that the judge imposed the sentence as a "trial tax" must be supported with evidence that clearly and convincingly demonstrates the judge acted vindictively, the Ohio Supreme Court ruled on April 18.

A Supreme Court majority found Malik Rahab failed to prove a Hamilton County Common Pleas Court judge's six-year sentence for burglary was based on vindictiveness after Rahab informed the judge he was rejecting a three-year sentence offered by prosecutors. The judge told Rahab he would most likely receive a longer sentence if he lost at trial.

In the Court's lead opinion, Justice **R. Patrick DeWine** wrote that any claim that a judge acted vindictively must be based on the entire record of the trial court proceeding. The Court ruled Rahab's sentence was based on the facts of the case and his criminal past, not on vindictiveness on the part of the trial judge.

Justice DeWine also noted Ohio will not adopt a presumption that a judge is acting vindictively when a defendant rejects a plea bargain and receives a harsher sentence when convicted.

State v. Rahab

[Slip Opinion No. 2017-Ohio-1401](#)

## Court of Appeals

### Sixth District: Raise Damages for Ex-Wife's Facebook Falsehoods

A Youngstown man's \$100 defamation award was too low because the trial judge incorrectly assumed that

offending Facebook posts were read mostly in northwest Ohio where the man used to reside with his ex-wife, the Sixth District Court of Appeals ruled, reversing a Sandusky County Common Pleas Court decision.

The ruling found that Brett Forinash is entitled to a new evaluation of his damages caused by a series of false claims made on social media by his ex-wife, Angela Weber.

Forinash filed his lawsuit because Weber's Facebook profile post alleged he was "hooked on porn [and] watches dirty movies with teenage girls." Forinash sought damages in excess of \$25,000, as well as orders for Weber to remove the defamatory statements and refrain from further postings.

The trial court granted summary judgment to Forinash, finding he was defamed, and awarded \$100 in nominal damages. The court also provided him \$500 in punitive damages, finding that Weber acted with malice, and ordered her to pay \$2,000 for Forinash's attorney fees.

Writing for the Sixth District, Judge **James D. Jensen** noted the trial court's rationale for the \$100 was based on the view that Forinash's standing in the community wasn't tarnished because he now lives in Youngstown and Weber lives in Sandusky County "where the Facebook posts would primarily have been read."

Judge Jensen wrote that Facebook posts aren't confined to a geographic region and Forinash supported his claim by providing testimony that friends in North Carolina questioned him about Weber's comments.

The case was remanded to the trial court to reexamine the damages.

Forinash v. Weber  
[2017-Ohio-1076](#)

## Court of Claims

### Court of Claims: Two Men Exonerated for Murder Granted \$1.45 Million Each for Wrongful Imprisonment

The state agreed to pay two Northeast Ohio men about \$1.45 million each in a Court of Claims settlement after they were declared wrongfully imprisoned for more than 16 years.

Robert Gondor and Randy Resh were implicated in the 1988 murder of Connie Nardi in Portage County. The two were found guilty and imprisoned in 1990, but in 2006, the Ohio Supreme Court ruled the two had to be retried. Resh was tried first and found not guilty. The state dismissed the charges against Gondor, and both were set free in 2007. They were officially designated wrongfully imprisoned in 2014.

The two filed for compensation with the Court of Claims and received partial payments in December 2015. Gondor, who spent 5,936 days in prison, was initially paid about \$422,000, and Resh, who was imprisoned for 6,012 days, received about \$427,000.

Overturing a verdict is the first of two steps one must attain before being declared wrongfully imprisoned. A civil suit then must be filed and the individual must prove that no further prosecution can occur for any other illegal act related to the alleged crime that resulted in imprisonment.

The trial judge hearing the civil case concluded that neither Gondor nor Resh were with, or even near, Nardi when she was killed.

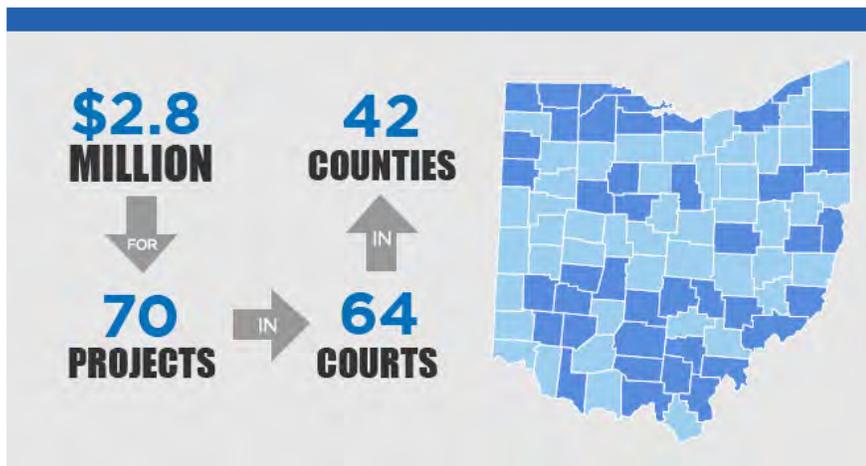
Robert Gondor, et al. v State of Ohio  
[Case No. 2015-00921](#)

# HappeningNow

News and Notes from Courthouses Across the Buckeye State

## Technology Grants

64 Local Courts Receive Funding



The Ohio Supreme Court announced on April 26 that 70 local court projects received more than \$2.8 million in technology grant funding.

Ohio courts were encouraged to submit one funding request for up to two separate projects in the competitive program. Courts located within an entity deemed to be in Fiscal Emergency or Fiscal Watch by the Ohio Auditor and those that had not received a technology grant previously were given priority.

“Technology grants increase access to justice to more Ohioans and remove barriers to the efficient and effective administration of justice for local courts,” Chief Justice **Maureen O’Connor** said. “Without this initiative, many much-needed technology improvements in courts around Ohio would not occur.”

For this third annual round of funding, preference was given to projects in the following order:

1. Upgrade to the court’s existing case management system that affects caseflow;
2. Upgrade, replacement, or purchase of other technology systems that affect caseflow or the fundamental duties of the court;
3. Upgrade, replacement, or improvement to computer hardware or equipment that supports the case management system or other systems that affect caseflow or the fundamental duties of the court;
4. All other computer hardware and software or equipment, including physical security equipment-related projects.

View the [complete list](#) of recipients.

### Lawyer Advertising, Ex-Magistrate Representation Opinions Issued by Board of Professional Conduct

The Ohio Board of Professional Conduct on April 14 issued advisory opinions on lawyer advertising and the representation of clients by a former magistrate. The opinions update and replace opinions previously issued by the Board under the former Code of Professional Responsibility and the former Code of Judicial Conduct.

Story continues on p. 11.

### IMPORTANT NOTICE

OhioCourtEDU, a new platform for course registration and online courses from the Ohio Judicial College and other Supreme Court offices, goes live on May 22. A blackout, however, is necessary during the system upgrade, with course registration unavailable from 5 p.m., May 12 through May 21. Further, all online courses must be completed by 5 p.m., May 12.

All registration and online courses will be available on May 22.

Questions: [ohiocourtedu@sc.ohio.gov](mailto:ohiocourtedu@sc.ohio.gov)

### Ohio Court of Claims Unveils E-filing System

The Ohio Court of Claims is now able to receive documents [electronically](#). To file electronically, users must register at [www.eFileOH.com](http://www.eFileOH.com), maintain a current email address where electronic notice and service will be made, and possess a valid credit card for billing purposes, either individually or through a firm.

Training videos, self-help guides, and FAQs are [available](#) to assist users. Call 800.297.5377 with any questions.

## Judicial Appointments

Gov. John Kasich recently appointed judges to courts across Ohio



**Erik Blaine**  
Montgomery County  
Common Pleas Court

Vandalia attorney **Erik Blaine** will become the newest Montgomery County Common Pleas Court judge on May 18 after his appointment on April 11 by Gov. **John R. Kasich**.

Blaine must win in the November 2018 general election to retain the seat for the full six-year term commencing Jan. 6, 2019. He replaces Judge **Michael L. Tucker**, who was elected to the Second District Court of Appeals.

Blaine received his bachelor's and law degrees from the University of Dayton. In addition to working at Dayton's Wright & Schulte LLC since 2012, he served as acting magistrate and special assistant city prosecutor for the Vandalia Municipal Court. He was admitted to the practice of law in Ohio on Nov. 6, 2006.

He is a member of the Ohio State, Dayton, and Shelby County bar associations, the Ohio Association for Justice, the American Association for Justice, the American Bankruptcy Law Forum, and the National District Attorney Association.



**Alan D. Hackenberg**  
Findlay Municipal Court

Gov. **John R. Kasich** appointed **Alan D. Hackenberg** on April 21 to serve as a judge on the Findlay Municipal Court. Hackenberg replaces Judge **Jonathan P. Starn**, who was appointed Feb. 21 to the Hancock County Common Pleas Court.

Hackenberg assumed the bench on April 28. He must win in the November 2017 general election to retain the seat for the unexpired term ending Dec. 31, 2021.

Hackenberg received his bachelor's degree from the University of Cincinnati and his law degree from the Claude W. Pettit College of Law at Ohio Northern University. He served as Findlay's assistant city law director and McComb's village solicitor. He was admitted to the practice of law in Ohio on Nov. 14, 1994. Hackenberg is a member of the Ohio State Bar Association, the Findlay/Hancock County Bar Association, the Findlay Elks Lodge, and Crime Stoppers of Findlay/Hancock County.

### National Resource Guides Trial Courts Through High-Profile Cases

Ohio trial courts have a new resource to turn to when confronted with high-profile cases.

The National Center for State Courts, the Conference of Court Public Information Officers, and the National Judicial College on April 17 released a new online [tool](#).

Made possible through a State Justice Institute grant, Managing High-Profile Cases for the 21st Century offers best practices and techniques that have proven useful to courts that have experienced high-profile trials. Checklists will help trial judges, administrative officers, security personnel, jury managers, and others provide public access while ensuring a fair trial.

In addition, the website highlights the top six considerations and solutions for courts, including who will be on the leadership team, and what unique challenges will arise from the case. Court documents and media notices from three recent high-profile trials – the Charleston, South Carolina, church shooting; the Aurora, Colorado, movie theater shooting; and the Boston Marathon bombing – also are available.

The 1998 edition of the book “Managing Notorious Trials” provided the basic framework of information, and an advisory committee of trial judges, court administrators, public information officers, and others added insights about new issues in high-profile case management.



# JUVENILE JUSTICE

Decided by the U.S. Supreme Court in 1967, *In re Gault* signified a turning point for the rights of children in juvenile courts

This month marks the 50th anniversary of a watershed ruling by the U.S. Supreme Court for the treatment of juveniles in the nation's courts. The 1967 *In re Gault* decision held that youth are entitled to many of the same rights adults have when encountering the judicial system – the right to an attorney, the right to have an attorney appointed if not able to afford one, the right to remain silent, the right against self-incrimination, and the right to confront witnesses against them.

The particulars of these principles are applied, though, in varied ways throughout the country and across Ohio. Juvenile justice is a balancing act that at once acknowledges children are different because of their age, immaturity, vulnerability, and other distinct qualities, yet considers that youth shouldn't be deprived of certain protections fundamental to our justice system simply because they aren't legally adults.

## Home-Rule Structure

In Ohio, those who work in the juvenile justice system identify “home rule” – the concept that local governments can choose how to govern themselves – as one reason for the divergent ways the state's juvenile courts handle cases.

“Every county is different,” said **Elizabeth Miller**, assistant director of the Office of the Ohio Public Defender.

Take the structure of appointing counsel in the state's 88 counties. Each one has a board of county commissioners, which determines how counsel will be provided. Miller explained that populous counties have county public defender's offices, which encompass a juvenile department focusing on the representation of children. In more-rural counties, however, there typically are no public defender's offices. Instead, courts appoint local lawyers to represent those in need, including children. In

addition, financial resources in each location fluctuate due to a hybrid system in which counties must fill gaps left by limits on state funding.

Franklin County Juvenile Court Judge **Elizabeth Gill** acknowledges the challenges of a home-rule state.

“It is hard to account for differences in population numbers, economics, and rural, suburban, and urban settings before Ohio’s 88 juvenile courts. Smaller counties may have fewer serious violations committed by juveniles, less resources, and a smaller bar,” Judge Gill said. “The primary barrier is not so much that there are 88 counties, but the vast differences in available resources, such as a limited numbers of attorneys available for appointments, lack of treatment programs, and heavy caseloads across the state.”

Headway has been made, though, to bring greater uniformity in administering justice in Juvenile Courts.

### Limits on Waiving Counsel

Rule 3 of the [Ohio Rules of Juvenile Procedure](#) sets the parameters for a juvenile’s right to counsel and when that right may be waived. A child charged with a felony offense heard in juvenile court can’t waive his or her right to an attorney unless the child first meets privately with counsel to discuss the right and the disadvantages of representing oneself. If a child in juvenile court faces any potential loss of liberty, the court must inform the child on the record of the right to counsel and the downsides of self-representation before accepting a waiver.



“A proceeding where the issue is whether the child will be found ‘delinquent’ and subjected to the loss of his liberty for years is comparable in seriousness to a felony prosecution.”

*In re Gault*, U.S. Supreme Court

Ten years ago, the Ohio Supreme Court decided [In re C.S.](#), where it delineated certain standards surrounding a juvenile’s waiver of counsel that were incorporated into Rule 3. Based on the case, the rule requires courts to consider “the totality of the circumstances including, but not limited to: the child’s age; intelligence; education; background and experience generally and in the court system specifically; the child’s emotional stability; and the complexity of the proceedings” before determining whether a child is waiving the right to counsel knowingly, intelligently, and voluntarily.

The rule also prevents juveniles from waiving their right to an attorney in specific situations. Juveniles can’t reject legal representation when they’re subject to prosecution in adult court or when a request has been made that the child be designated a “serious youthful offender” under state law. In addition, when there’s disagreement with the parent, guardian, or custodian or a request to remove the child from the home, the juvenile cannot waive legal representation.

The updates to Rule 3, effective in 2012, initially took shape in the Supreme Court’s Advisory Committee on Children and Families. Proposed changes to the rule were published for public comment, and the final rule reflects a compromise among many interests.

### Lesser Offenses Still Troublesome

Judge **Anthony Capizzi** of the Montgomery County Juvenile Court believes that youth accused of misdemeanors or status offenses need access to legal representation.

“Too often misdemeanors and status offenses are stepping stones to more serious crimes,” Judge Capizzi said. “If we’re able to redirect the juvenile before their behavior escalates, we do a greater service to both the juvenile and the community.”

Ensuring a child’s right to counsel in all cases would more likely open up options for youth, such as education, drug treatment, and other diversion programs, Judge Capizzi and Miller stated.

Judge Gill, who chaired the Court’s subcommittee that worked on the rule changes, said the initial proposal covered all offenses.

“However, any step toward implementation of *Gault* is positive,” she said. “Some progress is better than no progress. I think it was important that all voices were heard, which created buy-in from all parties.”

### Juvenile Cases Need Specialized Knowledge

To give the best legal guidance to children, both the Ohio Public Defender’s Office and the Ohio Supreme Court support bolstering the skill level of lawyers who represent juveniles. Miller said that even public defenders representing adults often think the juvenile process is

the same. She stressed, though, that representing kids is a specialization. The many differences between the adult and juvenile justice systems are made clear in statutes, juvenile court rules, and the overall mission of the juvenile justice system to rehabilitate, rather than punish, children.

Miller has seen many attorneys treat juvenile court as a training ground for their legal careers, an avenue to the next level. However, she explained, more legal talent is needed from those who have a long-term commitment to the unique nature of helping youth in the legal system. Lawyers working with children need to be able to speak the child's language, to connect and build trust, and to address some special challenges, such as mental health issues and wide-ranging literacy skills, she said.

"I do think people want to do the right thing regarding kids," Miller noted. "If we catch kids on the front end of the juvenile justice system, we may be able to stop them from ending up in adult court. That's a success."

On May 1, heightened training standards were implemented via the Ohio Administrative Code, and the Office of the Ohio Public Defender has implemented training on those standards.

For a county to receive reimbursement from the state for the cost of juvenile defense, lawyers who represent children accused of serious crimes need specialized training or experience in juvenile law. For example, an attorney appointed to represent a child charged with a felony must have earned in the two years before the appointment at least 12 hours of continuing legal education in criminal practice/procedure with half those hours in juvenile delinquency practice and procedure, or have one or two years' experience practicing law in juvenile delinquency, depending on the felony level.

### Training Achievements

**Stephanie Graubner Nelson**, who manages the Ohio Supreme Court's Children & Family Section, points to a national effort that has enhanced training in juvenile courts. The [Juvenile Detention Alternatives Initiative \(JDAI\)](#), created by the Annie E. Casey Foundation, focuses on cutting the number of low-risk youth confined in detention before and during their court proceedings by speeding up court procedures and finding alternative options. The initiative offers funding to local jurisdictions to sponsor education to help implement these goals. Eight counties in Ohio participate – Cuyahoga, Franklin, Lucas, Mahoning, Marion, Montgomery, Summit, and Trumbull.

"JDAI is promising work," Graubner Nelson said. In 2013, results indicated that fewer kids were



"The appointment of counsel for a juvenile is not a mere formality or a grudging gesture to a ritualistic requirement; it is a venerable right at the core of the administration of justice and due process."

*In re C.S.*, Ohio Supreme Court

spending time locked up. Over a 21-year timespan, locations implementing JDAI reduced the number of children held in detention nationwide by 44 percent, according to [the foundation's data](#).

In Montgomery County, Judge Capizzi reported that putting JDAI into practice has slashed the number of youth in detention by approximately 70 percent over the last five years.

"JDAI is more than just a detention alternative program," he said. "In fact, it is a much broader juvenile justice reform movement."

"In addition, JDAI training has helped our staff understand that detaining a child is, in and of itself, a traumatic experience," he added. The court has developed many "pro-social and community programs in lieu of sending youth to corrections and/or secured facilities," he said.

JDAI dovetails with the [Behavioral Health Juvenile Justice Initiative](#), run by the state's Department of Youth Services (DYS), which primarily deals with youth after they're sentenced. Both initiatives identify children with special needs, mental health issues, or substance abuse problems and try to divert those youth to community-based treatment programs. Established in 12 counties, the DYS effort, combined with other projects and grants, has resulted in the number of youth in the state's correctional facilities plummeting from [2,600 in 1992 to approximately 450 in 2014](#).

Story continues on p. 12.

# The Agenda

Upcoming events, training opportunities, and conferences for judges and court staff. For more information, contact the event sponsor at the website provided.

Judicial College  
Courses  
[judicialecademy.ohio.gov](http://judicialecademy.ohio.gov)

May 9  
**Probation Officer  
Training Program**  
Probation Officers  
Perrysburg

May 11  
**Fundamentals of  
Adult Guardianship  
BROADCAST**  
Adult Guardians  
Broadcast to various  
Ohio sites

May 16  
**Probation Officer  
Training Program**  
Probation Officers  
Akron

May 17 - 19  
**Court Management  
Program (CMP)**  
CMP 2019 Class Level I  
Purposes and  
Responsibilities of Courts  
Columbus

May 18 & 19  
**Motivational Interviewing**  
Probation Officers  
Columbus

May 23  
**Probation Officer  
Training Program**  
Probation Officers  
Columbus

May 24  
**Guardian ad Litem  
Continuing Education**  
**Course: Divorce**  
Guardians ad Litem  
Columbus  
8:30 a.m. - Noon  
OR 1 - 4:30 p.m.

June 5  
**Probate Pre-Conference**  
Judges & Magistrates  
Warren

June 7  
**Probation Officer  
Training Program**  
Probation Officers  
Dayton

**Children & Families  
Training**  
[sc.ohio.gov/JCS/CFC/training](http://sc.ohio.gov/JCS/CFC/training)

May 15  
**Regional Judicial Trauma  
Training for Abuse,  
Neglect & Dependency  
Cases**  
Perrysburg

May 18  
**Regional Judicial Trauma  
Training for Abuse,  
Neglect & Dependency  
Cases**  
Columbus

June 1  
**Juvenile Detention  
Alternatives Initiative  
(JDAI) Educational Event**  
Columbus

**Dispute Resolution  
Training**  
[sc.ohio.gov/JCS/  
disputeResolution/  
training/2017](http://sc.ohio.gov/JCS/disputeResolution/training/2017)

May 11  
**Early Neutral Evaluation**  
Columbus

May 17  
**Advanced Negotiation  
and Mediation for  
Attorneys**  
Columbus

**Parenting Coordination  
Roundtable  
Teleconference**  
(3rd Wednesday of each  
month, excluding July  
and December)

June 5 & 6  
**Domestic Abuse Issues  
for Mediators**  
Columbus

June 7 & 8  
**Basic Mediation**  
Columbus

**Language Services  
Training**  
[sc.ohio.gov/JCS/  
interpreterSvcs/calendar](http://sc.ohio.gov/JCS/interpreterSvcs/calendar)

May 26  
**Written Exam for Court  
Certification Candidates**  
Application Required

**Court Roundtables**  
[sc.ohio.gov/JCS/roundtables.  
pdf](http://sc.ohio.gov/JCS/roundtables.pdf)

Note: All meetings are at  
the Thomas J. Moyer Ohio  
Judicial Center in Columbus

May 11  
**Juvenile Administrators**  
Midsize & Rural Courts

June 8  
**Domestic Relations  
Custody Evaluators**  
All Counties

**Supreme Court  
of Ohio**  
[sc.ohio.gov](http://sc.ohio.gov)

May 10  
**Late Application  
Deadline to Take the July  
2017 Bar Exam**

May 15  
**Bar Admissions  
Ceremony**  
Palace Theater  
Columbus  
Ceremony will stream live  
at 2 p.m. at [sc.ohio.gov](http://sc.ohio.gov)

May 16 & 17  
**Oral Arguments**  
Live stream at 9 a.m. at  
[sc.ohio.gov](http://sc.ohio.gov)

May 29  
**Memorial Day**  
Court Offices Closed

Ohio Center for  
Law-Related  
Education  
[ocle.org](http://ocle.org)

May 5  
**High School Moot Court  
Competition**  
Moyer Judicial Center

May 10  
**Youth for Justice/Project  
Citizen Virtual Summit**

May 17  
**Middle School "We the  
People" Showcase**  
Columbus State  
Community College

Conferences  
& Meetings

May 2 - 5  
**[Ohio Association for Court  
Administration \(OCA\)](#)  
Spring Conference**  
Court Personnel Members  
Cleveland

May 4 & 5  
**Ohio Community  
Corrections Association**  
16th Annual Conference  
[occaonline.org](http://occaonline.org)

May 10 - 12  
**Ohio Association of  
Magistrates (OAM) Spring  
Conference**  
Magistrates  
Cincinnati  
[ohiomagistrates.org](http://ohiomagistrates.org)

May 17 & 18  
**Ohio Bailiff's & Court  
Officers Association**  
Spring Conference  
Cleveland  
[ohiobailiffs.com](http://ohiobailiffs.com)

May 23 – 26  
**Ohio Association of  
Municipal/County Court  
Clerks**  
Spring Conference  
Dublin  
[oamccc.org](http://oamccc.org)

June 6 - 8  
**Ohio Association of  
Probate/Domestic  
Relations/Juvenile Judges  
Summer Conference**  
Judges  
Warren

#### ADVISORY OPINIONS | Continued from p. 4

In [Advisory Opinion 2017-3](#), the Board provides guidance for lawyers who desire to use unsolicited emails as a form of advertising to attract new clients.

As a general rule, lawyers are not permitted to solicit clients through in-person contact, real-time electronic contact, or by live telephone. However, other forms of non-direct solicitation by lawyers are permissible. The Board advises that email is a form of an indirect communication that may be utilized by lawyers seeking new clients. When using email as a form of advertisement, the lawyer must abide by other conduct rules, including avoiding misleading communications, not engaging in unwanted communications or harassment, and adding a disclaimer that the email is an "Advertisement Only." The opinion also advises that a lawyer may use third-party services to send the emails, as long as the lawyer maintains responsibility for the actions of the service and the content of the emails. The opinion updates and withdraws former Adv.Op 2004-1.

In [Advisory Opinion 2017-04](#), the Board considered the ability of a former magistrate, now practicing law, to represent a domestic relations client, post-decree, in a matter originally heard by the magistrate.

The Board advises that a former magistrate may not represent the client, unless all parties give informed consent, in writing, to the representation. If the former magistrate is not permitted to represent the client, no lawyer in the former magistrate's firm may represent the client unless the former magistrate is timely and properly screened by the firm, receives no part of the fee, and written notice is provided to the parties and the court.

The Board also advises that under the Ohio Ethics Law, the former magistrate is prohibited for 12 months from representing a client in any matter the former magistrate personally participated before leaving public office. The opinion updates and withdraws former Adv. Op. 2005-5.



**JUVENILE JUSTICE | Continued from p. 9****Racial Discrepancies Persist**

Still a challenge nationally is the number of children of color who are disproportionately represented in the juvenile system compared with ethnic and racial makeups outside the juvenile detention walls.

According to [statistics from the federal Office of Juvenile Justice and Delinquency Prevention](#), racial and ethnic minority youth comprise 46 percent of children in the United States. However, they represent 68 percent of the children held in detention before their case is resolved, serving a commitment after sentencing, or placed in a facility as part of a diversion agreement. Miller would like to see more information gathered on this issue in Ohio as a tool to combat the disparities.



**"The child 'requires the guiding hand of counsel at every step in the proceedings against him.'"**

*In re Gault*, U.S. Supreme Court

"The problem is we don't have comprehensive data, and the statistics we have aren't uniform statewide," Miller said.

Judge Gill agrees, adding that it's very difficult to manage this type of data collection on a statewide level.

"There's the issue of definitions, for example. What is recidivism? Over what timeframe? Do you count only adult convictions? If we don't use exact definitions, then it's difficult to collect accurate numbers. And few, if any, courts can afford excellent data collection software," she said.

Judge Capizzi sees the hurdles as well.

"We need to be able to compare apples to apples," he said. "A robbery, assault, drug possession, or

unruly in Montgomery County must mean the same thing in Ashtabula, Hamilton, and Henry counties."

"Without the ability to review data, though, there is a possibility of abuse and of juveniles not receiving appropriate services or having their rights protected," he added.

**Cooperative Endeavors Praised**

While many organizations press for more improvements statewide, collaboration is common among those working in the juvenile court system. The Public Defender's Office has seats on various juvenile justice committees, including ones at DYS, the [Ohio Criminal Sentencing Commission](#), and the Supreme Court. Judge Gill said Ohio counties implementing JDAI standards have

had extraordinary success bringing together all the stakeholders – police, schools, public defenders, prosecutors, probation officers, and others.

She noted that the Supreme Court has taken the lead on fostering collaboration to further juvenile justice.

"The Court unifies us across the state, is very supportive of the juvenile courts, and keeps us on track to move *Gault* forward for the next 50 years," she said.



## CNO Legislative Digest

Each month, Court News Ohio Review tracks bills and resolutions pending in the Ohio General Assembly that are of interest to the judicial community.

### **HB 49 – OPERATING BUDGET, Rep. Ryan Smith (R-Gallipolis)**

Creates FY 2018-2019 main operating budget.

**STATUS:** Pending substitute bill and amendments in House Finance Committee.

### **HB 174 and SB 130 – FRANKLIN COUNTY JUDGES, Rep. Jim Hughes (R-Columbus) and Rep. Laura Lanese (R-Grove City); Sen. Charleta Tavares (D-Columbus)**

To add two judges to the Domestic Relations Division of the Franklin County Court of Common Pleas to be elected in 2018.

**STATUS:** Introduced April 5, 2017 and April 10, 2017, respectively.

### **SB 125 – CHILD SUPPORT LAW CHANGES, Sen. Bill Beagle (R-Tipp City)**

To make changes to the laws governing child support.

**STATUS:** Introduced April 5, 2017.